

REMARKS

Claims 1, 3 and 6-41 are pending in the application. Independent Claims 1, 10, 18, 24 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wheatley, III et al (U.S. Patent 5,461,639) in view of Bruckert (U.S. Patent 5,751,763). The Examiner states that the combination of Wheatley, III et al. and Bruckert discloses all of the elements of the claims. Applicants respectfully disagree. Each of the independent claims recites that the positions of the punctured encoded data symbols are chosen to lessen a channel degradation. The Examiner has not addressed this element of the claims, and as such has not established a prima facie case for his rejections. In fact, Wheatley, III et al. states that performance degradation is actually created by the puncturing process disclosed therein, and the power control method compensates for the degrading. The claims of the present application clearly recite that the puncturing pattern is set to minimize channel degradation. The puncturing pattern of Wheatley, III et al. is not chosen to lessen channel degradation. Bruckert does not cure this deficiency. Withdrawal of the rejections of Claims 1, 3 and 6-41 is respectfully requested.

Independent Claims 1, 10, 18, 24 and 30 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 3, 6-9, 11-17, 19-23, 25-29 and 31-41, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 3, 6-9, 11-17, 19-23, 25-29 and 31-41 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1, 3 and 6-41 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written in a cursive style.

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